

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
Civil Action No.: Civil Action No.: 5:25-cv-00024

GENERALI-U.S. BRANCH,

Plaintiff,

v.

AIRBNB, INC., CONSIDERING FIELDS,
LLC, JOHN MICHAEL GARDNER AND
MONICA HELDERMAN GARDNER,
MARION ALLISON THARP, MEREDITH
THARP, SHARON LACOURLEY, MARC
LACOURLEY, JORDAN LACOURLEY,
MARY HOLLY MCALISTER, JESSICA
MCALISTER, HALLIE L. MARSHALL,
CYNTHIA H. MUSSELWHITE, LAURA
WILSON AND WESLEY JOE
MARSHALL, individually and as Guardian
ad Litem for HAYES JOSEPH
MARSHALL, a minor,

Defendants.

**PETITION FOR
INTERPLEADER**

Generali – U.S. Branch (“Generali”), by and through its attorneys and pursuant to 28 U.S.C. § 1335 and Rule 22 of the Federal Rules of Civil Procedure, for its Petition for Interpleader, states and alleges as follows:

PARTIES, JURISDICTION and VENUE

1. Generali is an insurance company domiciled in New York as the U.S. representative office of Assicurazioni Generali, S.p.A.
2. Defendant Airbnb, Inc. (“Airbnb”) is a Delaware Corporation, headquartered in San Francisco, California.
3. Defendant Considering Fields, LLC (“Considering Fields”) is a North Carolina

LLC, located in Catawba County, North Carolina. Defendants John Gardner and Monica Gardner are the members of Considering Fields.

4. Defendant John Michael Gardner is a citizen and resident of Catawba County, North Carolina.

5. Defendant Monica Helderman Gardner is a citizen and resident of Catawba County, North Carolina.

6. Defendant Marion Allison Tharp is a citizen and resident of Hall County, Georgia.

7. Defendant Meredith Tharp is a citizen and resident of Hall County, Georgia.

8. Defendant Sharon LaCourley is a citizen and resident of San Francisco County, California.

9. Defendant Marc LaCourley is a citizen and resident of San Francisco County, California.

10. Defendant Jordan LaCourley is a citizen and resident of San Francisco County, California.

11. Defendant Mary Holly McAlister is a citizen and resident of Greenville, South Carolina.

12. Defendant Jessica McAlister is a citizen and resident of Henderson County, North Carolina.

13. Defendant Hallie L. Marshall is a citizen and resident of Gwinnett County, Georgia.

14. Defendant Cynthia H. Musselwhite is a citizen and resident of Gilmer County, Georgia.

15. Defendant Laura Wilson is a citizen and resident of Hall County, Georgia.

16. Defendant H.M., a minor, is a citizen and resident of Gwinnett County, Georgia. Wesley Joe Marshall is the duly appointed *Gurdian ad Litem* for the minor Plaintiff.

17. The defendants referenced in paragraphs 6-16 above are referred to herein collectively as “Underlying Plaintiffs.”

18. This Court has personal jurisdiction over Underlying Plaintiffs (those Defendants identified in paragraphs 6-16 above) and the remaining Defendants, because the incident in which Underlying Plaintiffs claim they sustained damages as a result of the acts or omissions of the remaining Defendants occurred in Ashe County, North Carolina.

19. This Court has subject matter jurisdiction of this action pursuant to 28 U.S.C. § 1335 because Generali issued a policy of insurance of value or amount of \$500 or more and two or more adverse claimants, of diverse citizenship are claiming or may claim to be entitled to such money and Generali has petitioned the Court, pursuant to Rule 67, for leave to deposit the sum total of its available insurance to the Court.

20. Additionally, this Court has subject matter jurisdiction under 28 U.S.C. § 1332, because Plaintiff is not a citizen of the same State as any defendant, and the amount at stake exceeds the sum or value of \$75,000.

21. The amount in controversy is more than \$75,000 because the remaining liability limit under the policy issued by Generali exceeds \$75,000 and the claims made by Underlying Plaintiffs exceed that amount.

22. Jurisdiction and venue are proper in this Court because the parties named herein have submitted claims or are believed to have potential claims arising from an incident that occurred in Ashe County, North Carolina.

FACTS

23. Generali issued Commercial General Liability policy number GLAB0001 to Airbnb,

Airbnb.org, and Airbnb RPG Inc., for the policy period from December 31, 2022 to June 30, 2024 (the “Policy”). A true and accurate copy of the declarations page of the Policy is attached hereto as Exhibit A.

24. John Michael Gardner, Monica Helderma Gardner and/or Considering Fields LLC (hereinafter collectively referred to as “Hosts”) qualify as insureds under the Policy with respect to the Incident described in paragraph 25 below.

25. Underlying Plaintiffs allege that on or about April 22, 2023 they were injured as a result of a deck collapse (the “Incident”) on property owned by Hosts and rented through Airbnb.

26. Underlying Plaintiffs have filed the following lawsuits relating to the Incident:

- (1) *Wesley Joe Marshall v. Gardner & Considering Fields L.L.C.*
North Carolina General Court of Justice, Superior Court Div.
Case No. 23-CVS-2384 (Catawba County)
- (2) *Marion & Meredith Tharp v. Considering Fields, L.L.C., et al.*
North Carolina General Court of Justice, Superior Court Div.
Case No. 23 CVS 369 (Ashe County)
- (3) *Mary Holly McAlister, et al. v. Gardner & Considering Fields, L.L.C.*
North Carolina General Court of Justice, Superior Court Div.
Case No. 24 CVS-1893 (Catawba County)
- (4) *Sharon LaCourley, et al. v. Airbnb, Inc. & DOES 1-10*
California Superior Court, San Francisco County
Case No. CGC-24-619210

27. The total amount of the Underlying Plaintiffs’ actual and potential claims alleged against Generali’s insureds are reasonably expected to be greater than the applicable liability limit of the Policy.

28. Generali is ready, willing, and able to pay all of its remaining applicable policy limit of liability coverage under the Policy, but the Underlying Plaintiffs have conflicting claims or potential claims to the proceeds of such Policy due to their competing claims.

29. Based on the foregoing, there are questions as to which of the Underlying Plaintiffs are to be paid, and in what amount, and Generali is or may be exposed to double or multiple claims

against the same insurance coverage.

30. Generali's Petition for Interpleader is not to be construed as an admission of liability and liability is expressly denied herein.

31. Generali respectfully requests this Court to determine when, how, and to whom its total remaining applicable liability coverage limit under the Policy should be paid.

WHEREFORE, Generali requests of this Court the following:

- (A) An Order under Rule 67 of the Federal Rules of Civil Procedure allowing Generali to deposit the remaining applicable liability limit under the Policy into the Court within thirty (30) days of the Court's Order granting interpleader;
- (B) An Order directing that all persons or parties having a claim to such limit be required to interplead their claims herein;
- (C) That, upon Generali's payment of all remaining applicable liability limit under the Policy into Court within thirty (30) days after the Order granting interpleader, Generali be discharged from any further indemnity obligation to any insured or Underlying Plaintiffs for any amount in excess of the remaining liability limit, except with respect to any continuing duty on the part of Generali to defend any insured from any civil cases related to or arising from the Incident.
- (D) For such other and further relief as justice requires.

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This the 7th day of February, 2025.

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CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of February, 2025, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel of record as follows:

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